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**In the Supreme Court**  
**OF THE**  
**United States**

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CLERK

OCTOBER TERM, 1943

**No. 305**

STANLEY W. TAYLOR,

*Petitioner,*

VS.

PRENTISS M. BROWN, Price Administrator,

*Respondent.*

**PETITION FOR WRIT OF CERTIORARI**  
**to the United States Emergency Court of Appeals**  
**and**  
**BRIEF IN SUPPORT THEREOF.**

STANLEY W. TAYLOR,

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*Petitioner.*

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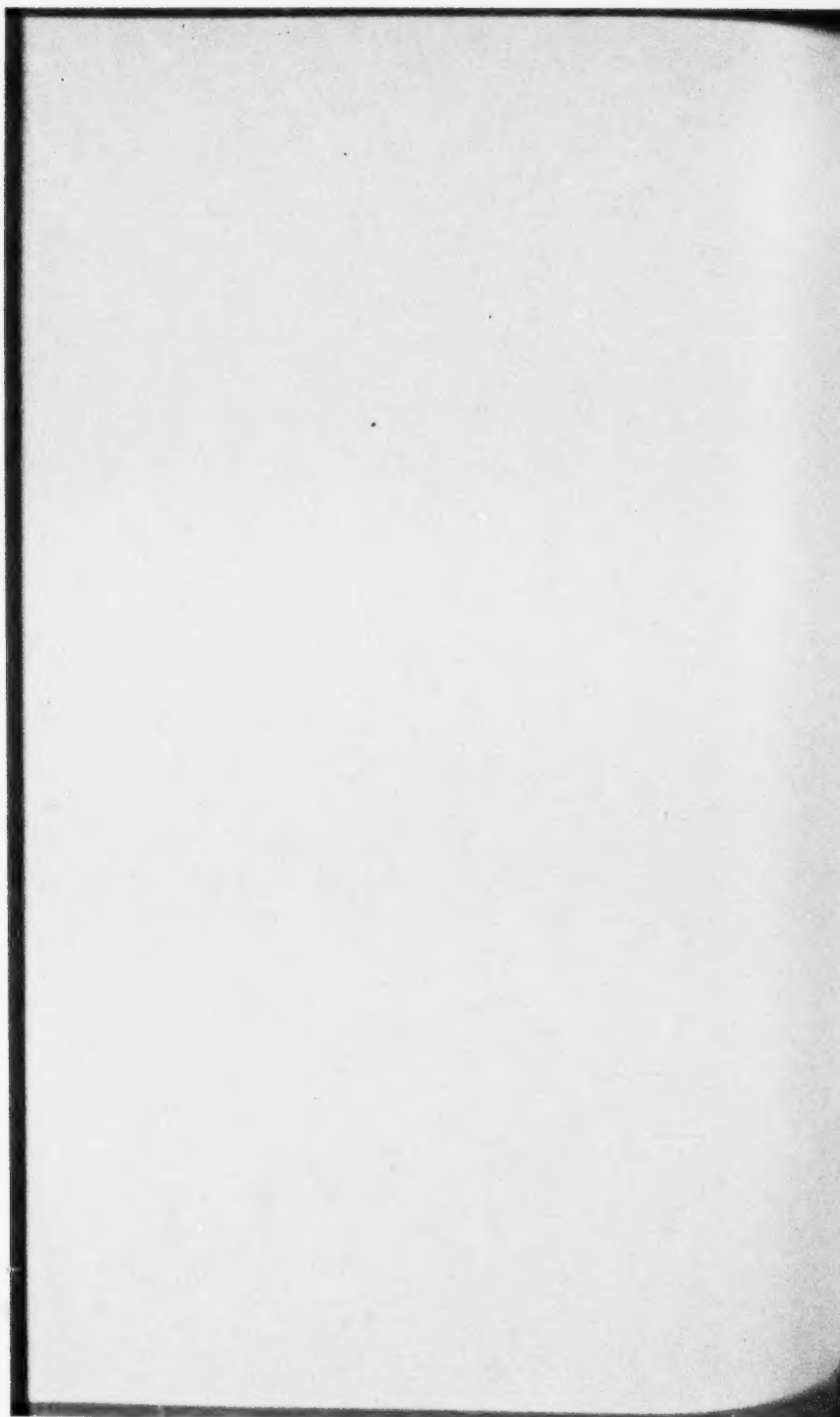
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STANLEY W. TAYLOR,

*Petitioner,*

vs.

PRENTISS M. BROWN, Price Administrator,

*Respondent.*

## **PETITION FOR WRIT OF CERTIORARI to the United States Emergency Court of Appeals.**

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*To the Honorable Harlan Fiske Stone, Chief Justice  
of the United States, and to the Associate Justices  
of the Supreme Court of the United States:*

Your petitioner, Stanley W. Taylor, prays that a writ of certiorari issue to review the judgment of the United States Emergency Court of Appeals in the cause entitled Taylor v. Brown, No. 10, which became final on July 30, 1943, on the denial by said Court of petitioner's motion for rehearing therein.

In support thereof the petitioner respectfully represents to this Honorable Court as follows:

**SUMMARY AND STATEMENT OF THE MATTER INVOLVED.**

Heretofore, to-wit, on October 23, 1942, a complaint was duly filed by petitioner in the United States Emergency Court of Appeals, complaining against the Administrator of the Office of Price Administration because of the denial of his Protest MR 28-19-P duly filed with said Administrator on August 27, 1942, and denied by him on September 28, 1942. Said complaint was duly docketed as cause No. 10 in said Court and came on for hearing May 10, 1943. Judgment was entered by said Court on July 15, 1943 dismissing said complaint, and on motion duly made for a rehearing the Court denied said motion by its final order dated July 30, 1943.

There is included herewith and certified to be correct by the Clerk of the United States Emergency Court of Appeals, a transcript of record of said cause in said Court. The transcript includes copies of the following documents and papers:

- (1) Complaint,
  - (2) Answer of Respondent,
  - (3) Transcript of Proceedings before the Price Administrator,
  - (4) Proceedings in the United States Emergency Court of Appeals,
- in the case of

Stanley W. Taylor,

Complainant,

vs.

Prentiss M. Brown, Price Administrator,  
Respondent.

Docket No. 10

Said cause raises the question of the validity of the rent control and procedural provisions of the Emergency Price Control Act of 1942 (Pub. Law 421, 77th Congress, 2nd Session, being Act of Jan. 30, 1942, C. 26, 56 Stat. 23), hereinafter called the Act. The said cause likewise protests the validity and propriety of Procedural Regulation No. 3 and Maximum Rent Regulation No. 28 issued by the Administrator under authority of the Act and the propriety of Registration Form DD 2-D issued thereunder.

The complaint charges in part that the Act and regulations discriminate unlawfully against landlords; that they authorize and result in the taking of private property for the private use of other persons without just compensation and without due process; that the Act, as far as such provisions are concerned, is an unconstitutional delegation of legislative authority; and that Regulation No. 28 is arbitrary and capricious and goes beyond the authority of the Act and is unconstitutional.

It is also charged in subsequent proceedings in said cause that the Administrator, after the filing of the complaint, instituted or caused to be instituted against

the petitioner various legal proceedings calculated to harass and annoy said petitioner. The petitioner sought to bring these actions before the Emergency Court of Appeals on the grounds that they each had an important bearing on the questions at issue and sustained the petitioner's contentions therein. The motion for admission of this evidence was denied by the Court.

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#### **STATEMENT OF JURISDICTION.**

The jurisdiction of this cause is specifically vested in this Honorable Court by the provisions of the Act. Section 204(d) of said Act provides in part as follows:

“Within thirty days after entry of a judgment or order, interlocutory or final, by the Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, \* \* \* The Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Emergency Court of Appeals, shall have exclusive jurisdiction to determine the validity of any regulation or order issued under section 2, \* \* \*” (of the Act).

(Section 2 of the Act referred to in the above quotation is the section authorizing rent and price control and covers the regulations and orders herein at issue.)

The petitioner has duly followed the procedure set forth in Sections 203 and 204 of the Act and the sub-



ject matter of his protest and cause in the Emergency Court of Appeals is that specified in the appropriate provisions of the Act as herein set forth.

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### **QUESTIONS PRESENTED.**

The questions presented are as follows:

(1) Are the rent control provisions of the Emergency Price Control Act of 1942 a valid exercise of the war power of Congress?

(2) Does the circumstance that the United States of America is engaged in a war nullify the Constitution or suspend its operation, or must the war powers of Congress be exercised within constitutional limits and by constitutional methods?

(3) Does the Act in its delegation of authority to the Administrator of the Office of Price Administration violate the constitutional provisions which vest in Congress alone the power to legislate?

(a) Does the Act evince a clear, definite public policy?

(b) Are these policies insofar as they relate to rents of private property within the various states a proper field of congressional legislation under the Constitution?

(c) Does the Act provide a definite standard of conditions for activity in respect of which the execu-

tive or administrative authority must conform and shall function to satisfy or promote that policy?

(d) Does the Act require a factual determination by the Administrator of the existence of a status or congeries of circumstances respecting and related to the policy and standard as a prerequisite of the prescribed action?

(e) Does the Act exact activity from the Administrator when a specified state of facts or congeries of circumstances is found to exist, or does the Act leave it to the discretion of the Administrator to act or not to act when the statutory standard of conditions for action is extant?

(4) Do the rent control and procedural provisions of the Act violate or grant to the Administrator the power to violate the due process clause of the Fifth Amendment to the Constitution?

(5) Do the rent control provisions of the Act unlawfully or otherwise grant to the Administrator the power to take private property without any or just compensation for the benefit of private persons or for any other purpose?

(6)(a) Do the rent control provisions of the Act grant to the Administrator the power to issue regulations or orders prohibiting the private renting of a garage, or the providing of additional space, furnishings, services or facilities prior to consent first having been obtained from the Administrator?

(b) Do the rent control provisions of the Act grant to the Administrator the power to prohibit the

collection of any rent or charge for such garage, space, furnishings, services or facilities until a maximum rent or charge therefor has been fixed by the Administrator?

(b) Do the rent control provisions of the Act grant to the Administrator the power to make unlawful the retention of any rent or charge collected for such garage, additional space, furnishings, services or facilities for the period of time prior to the fixing of a maximum rent or charge for such facility?

(c) Is the common practice of the Administrator of requiring the refund to the tenant of all such charges (as enumerated in (b) above) as a prerequisite of an order fixing the maximum allowable charge for future use of such facilities a valid and lawful practice under the Act and under the Constitution?

(d) Where such facilities were provided after the maximum rent date but prior to the issuance of the maximum rent regulation is it unlawful after the effective date of such regulation to make a charge or continue charging for such facilities prior to the time that a maximum allowable charge is fixed or established by the Administrator?

(7) Is it lawful under the Act for the Administrator to prevent the recovery of possession of property where the owner seeks not to offer said property for rent?

(a) Is it lawful under the Act for the Administrator to require his consent to be first obtained before such property is withdrawn from rental?

(b) Is it lawful under the Act to prohibit recovery of possession of property for the purpose of sale thereof, or to place any restrictions upon such recovery or sale, such as the requirement of ninety days notice or one-third down payment from the purchaser or consent of the Administrator prior to such recovery of possession?

(c) Is it constitutionally lawful for the Price Administrator to promulgate and enforce regulations governing or prohibiting the eviction of tenants, which supersede and conflict with state laws which fully cover the grounds and procedure for such evictions?

(8) Is it lawful under the Act for the Administrator to require the reduction of rents which have not been the subject of unwarranted or abnormal increases?

(9) Is it lawful under the Act for the Administrator to prohibit warranted increases in rent where the housing accommodations are rented at rents below the prevailing rents of comparable housing accommodations in the neighborhood or defense-rental area where such accommodations are located?

(10) Is Maximum Rent Regulation No. 28 a lawful exercise of the powers conferred upon the Administrator?

(a) Is the regulation (28) generally fair and equitable in relation to the housing industry—or is it arbitrary and discriminatory?

(b) Do the eviction and adjustment provisions of said regulation provide adequate and proper protection to property owners?

(11) Does Procedural Regulation No. 3, issued under authority of the Act, constitute a valid and proper exercise of the powers conferred upon the Administrator by said Act?

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**REASONS RELIED ON FOR ALLOWANCE OF WRIT.**

Your petitioner respectfully shows to this Honorable Court that this is a case of great importance not only to your petitioner, but to all owners of property which is rented and to the multiple housing industry throughout the United States. The questions involved are of substantial and vital importance and widespread interest and have been the subject of various conflicting court decisions, and have never been passed upon by this Honorable Court which has been given final jurisdiction thereof.

The Emergency Price Control Act of 1942 is the most far-reaching law ever enacted by Congress. The Administrator created by the Act has issued regulations under which his agents and local administrators have undertaken to regulate and control the renting of housing accommodations and the occupancy thereof to a measure which seems altogether unreasonable and unlawful.

The scope and extent of such encroachment upon the rights of property owners may be best described

by offering excerpts from the official report of the Congressional Select Committee to Investigate Acts of Executive Agencies Beyond the Scope of Their Authority issued July 27, 1943. (Union Calendar No. 236, Report No. 699, House of Representatives, 78th Congress, 1st Session.)

In the introductory matter of said report the committee states, concerning the Act and its administration:

"The language of the act is admittedly general and contains many grants of discretionary authority to the Administrator. But, judging from testimony of O.P.A. officials themselves before this committee, the attempt has been made by these officials to stretch as far as possible the scope of this discretionary authority, rather than to determine with care the reasonable limits that should be and were intended by Congress to be drawn in the exercise of the authority granted. They further testified that they had failed to exercise certain discretionary powers granted under the Act to correct inequities and to do justice to individuals because of the administrative difficulties involved." (p. 3.)

In its findings of fact the committee reports:

"(1) Public Law 421, Seventy-seventh Congress, creating the Office of Price Administration, grants too broad a discretionary power to the Administrator, and fails to provide a sufficiently clear definition of this power, to guard against its abuse and to adequately safeguard the constitutional rights of citizens \* \* \*." (p. 3.)

"(2) Certain regulations of O.P.A. have unnecessarily conflicted with national and local laws, and have compelled unwarranted changes in established business practices, in violation of section 2(h) and section 4(d) of the Act. Its requirement of a  $33\frac{1}{3}$  per cent down payment on the purchase of homes and a 90-day delay in recovery of possession has drastically changed practices of the Home Owners' Loan Corporation \* \* \*." (p. 3.)

"Your committee is of the opinion, from the evidence before it, that the Rent Department of O. P. A. has far exceeded the power given it, or intended to be given it, by the Congress with respect to the leasing of real estate and the terms and conditions of such leases." (p. 4.)

"By means of its regulations regarding evictions, the Rent Department of O.P.A. has set aside and over-ridden State and local laws with regard to evictions in all except three defense-rental areas, and has attempted to 'educate' the courts to do likewise, thereby acting beyond the scope of its authority and invading the constitutional rights of citizens. \* \* \*" (p. 5.)

"(3) The committee is of the opinion that certain of the regulations of the Rent Department have deprived property owners of a portion of the equity in their property, when such action was unnecessary to bring about effective rent control \* \* \*."

"O.P.A. grants permission to public housing to increase its rentals to the comparable market level but denies to private housing this right, even though the rentals in the private housing

were kept below the market level as a result of Federal Housing insurance regulations." (p. 5.)

Property owners alone of the whole economic system have been rigidly "frozen" at their worst relative economic position in history. They have been barred from the collection of any rent for the use of garages, extra rooms, extra furniture or equipment provided at the request of tenants and necessary to provide housing for war workers. Where such rent has been collected by owners they have been prosecuted and persecuted. Justifiable and proper adjustments commonly have been denied them until they would refund to the tenant any rents or charges collected prior to an order of the rent director permitting and fixing the proper charge therefor. Often these orders have been delayed for many months. If such owners have been unable to operate under these conditions and have attempted to go out of business or withdraw their property from rental the Administrator has threatened criminal action against them and in the case of petitioner, demanded heavy fines and the imprisonment of said petitioner.

Notwithstanding the facts as disclosed by the aforesaid congressional committee and as presented to the United States Emergency Court of Appeals in this and other causes no relief has been given to property owners by said Court.

This Honorable Court is the Court of last resort to which property owners must appeal for the protection of their rights. The Act itself specifically



places the powers of the Administrator outside the jurisdiction of State and Federal Courts and gives exclusive jurisdiction to the U. S. Emergency Court of Appeals and to this Honorable Court on review of judgments and orders of said Emergency Court of Appeals. (Section 204(d).)

It is obvious that each owner cannot come to this Honorable Court for aid regarding his own particular case. For this reason the original protest was filed by the petitioner in the manner provided by the Act itself while serving as chairman of the rent control advisory committee of an association of property owners representing many thousands of properties and dwelling units. Property owners throughout the nation anxiously await the review of this cause.

Wherefore, your petitioner respectfully prays that a writ of certiorari may be issued out of and under the seal of this Court, directed to the United States Emergency Court of Appeals to the end that the judgment of the United States Emergency Court of Appeals may be reviewed and remanded by this Honorable Court with such instructions as may be proper.

Dated, San Francisco, California,  
August 26, 1943.

STANLEY W. TAYLOR,  
*Petitioner.*

C. M. WALTER,  
*Attorney for Petitioner.*

JOHN C. STIRRAT,  
*Of Counsel.*

State of California,  
City and County of San Francisco.—ss.

Stanley W. Taylor, being first duly sworn, deposes and says:

That he is the petitioner in the foregoing petition for writ of certiorari and that he has read the foregoing petition for writ of certiorari and knows the contents thereof and that the same is true of his own knowledge except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

Stanley W. Taylor.

Subscribed and sworn to before me this 26th day of August, 1943.

(Seal)

Ella Cook Kelly,

Notary Public in and for the City and County  
of San Francisco, State of California.

My commission expires December 23, 1944.